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Funding Status – FY 2020

Wave 24 for FY 2020 was released on Thursday, October 8th for a total of $26.8 million including $517 thousand for 6 North Carolina applicants. Cumulative commitments are $1.73 billion including $59.5 million for North Carolina. Nationwide, USAC has now funded 90% of the FY 2020 applications representing 62% of the requested funding.

FCC Chairman Pai's Position on E-Rate Support for Remote Learning

There is an open question as to the legality of using E-rate funds to fund off-campus Internet services for remote learners. FCC Chairman Pai's position is that the statutory language on which E-rate is based provides funding only for on-campus use. But the Chairman also recognizes the importance of supporting remote learners and has initiated several programs aimed at doing just this. In letters to many Senators last week, Chairman Pai laid out his position and reviewed the actions that the Commission has taken to date. A common version of his Senate letters states:

> Thank you for your letter regarding the Commission's efforts to help students stay connected while they shift to online learning during the ongoing COVID-19 pandemic. Extended school closures due to COVID-19 have led to unprecedented disruption of K-12 education in this country. Schools have had to change the way they teach, and it is critical that parents and students stay connected so that they can participate in online learning from home during this crisis.
>
> In response to this sudden shift, the Commission quickly worked to facilitate the transition to online learning by waiving and extending several E-Rate program rules and deadlines. One such waiver of the Commission's gift rule enables service providers to offer, and program participants to solicit and accept, free broadband connections, devices, and other services that support remote learning, which would otherwise be prohibited under our rules. Similarly, we have extended a number of E-Rate program deadlines to alleviate administrative and compliance burdens on schools and libraries during the pandemic. This relief included a 35-day extension of the initial application filing window for funding year 2020 and a one-year extension of the service implementation deadline for special construction to deploy fiber. Additionally, to facilitate community connectivity during the coronavirus pandemic, we clarified that schools and libraries that are closed due to COVID-19 may permit the general public to use E-Rate-supported Wi-Fi networks while on the school's campus or library property.

Most recently, we opened a second funding year 2020 filing window to allow schools to request additional E-Rate funding specifically to address increased on-campus bandwidth needs resulting from the pandemic. Schools are increasingly shifting to 1:1 student-to-device ratios in classrooms, relying on live streaming of classroom instruction to students at home, and expanding use of cloud-based educational tools and platforms—all of which can significantly increase on-campus bandwidth requirements. The second filing window will close on October 16, 2020.

I also would point out that Congress has also provided $16 billion in CARES Act funding—a massive injection of funding that is 400% more than the annual cap for the E-Rate program—to help schools during COVID-19. Congress also made it explicit that this funding can be used for remote learning. We've been working with the Department of Education to help make sure that schools know about this important resource, and I would hope and expect that educators would prioritize their students' needs as they spend these funds. Many have already done so, including officials in Alabama, Connecticut, Delaware, Oklahoma, and the District of Columbia who are deploying CARES Act funding for the benefit of students. We've also been working with the Institute of Museum and Library Services to get the word out to libraries and Tribal organizations about CARES Act funding that is available to help the bridge the digital divide in their communities.

And just this week, the Federal Communications Commission enabled hundreds of rural broadband providers to offer discounts and service upgrades to families with children who are eligible for free or reduced-price school lunches through the National School Lunch Program. Specifically, the National Exchange Carrier Association worked with the FCC's Wireline Competition Bureau staff on tariff revisions that will provide eligible new customers of rural carriers a 25% discount on certain broadband services and offer existing eligible customers faster connections at no cost, all with the goal of helping connect low-income students to remote learning

While these efforts are providing much needed support for remote learning, the Commission is limited in its ability to take the further action you request. The Commission must act within the bounds of the statutory authority given to the agency by Congress and use E-Rate program funding for broadband and other "services" provided to school "classrooms." As such, wireless connectivity and devices supplied to students at home unfortunately do not qualify for E-Rate support under the law, regardless of whether they are being used for educational purposes. And because agencies only have the authority granted to them by Congress, we do not have the authority to waive these statutory requirements. *See City of Arlington, Tex. v. FCC*, 569 U.S. 290, 297 (2013); *Chrysler Corp. v. Brown*, 441 U.S. 281, 302 (1979).

That's why we have been working, and will continue to work, with Congress on dedicated funding for remote learning to give students across this country an opportunity to connect with their teachers and online educational resources from home. This includes funding for Wi-Fi hotspots, Wi-Fi enabled modems, end-user devices, and broadband connectivity for students who need these tools to do online learning at home. I remain willing to work with Congress on solutions to this problem, especially a remote learning initiative of the kind I proposed back in the first month of the pandemic.

E-Rate Updates and Reminders

Upcoming E-Rate Dates:

October 12	Nomination deadline for six USAC Board members including one school representative (see our newsletter of August 17th).
October 16	Second Form 471 application window for FY 2020 closes at 11:59 p.m. EDT.
October 22	First in a series of interactive E-rate training sessions conducted by the State Educational Technology Directors Association ("SETDA"). For a full schedule and registration details, see E-Rate Training Series: Ask the State Experts.

Service Provider Audits:

Each year, USAC conducts a series of audits — both random and directed — on E-rate applicants and service providers. When service providers are audited, questions are typically directed to the vendors' clients as well to confirm services provided, discounts given, and non-discounted payments made. Generally these are straight-forward requests that can be easily answered. In one recent case, applicants were asked for the following information concerning FY 2017 funding:

1. Please provide a description of the services that you received under this FRN:
2. Were the services that you received consistent with those that the service provider billed? If not, please explain.
3. Were the services that you received consistent with your contract with the service provider? If not, please explain.
4. Were any of the services that you received under this contract ineligible for E-rate support? If so, please describe.
5. Please provide your Funding Year 2017 discount percentage for this FRN.
6. Did the service provider pay you for SLP reimbursements by check or by crediting your service bill?
7. Please list the receipt dates and amounts of all payments you received under this FRN.
8. Have you made all payments to the service provider for the non-discounted portion of the service bills?

Streamlined BEAR Processing, cont.:

As reported in our previous newsletter, USAC's Schools and Libraries News Brief of October 2, 2020 indicated that USAC was modifying its invoice review system so that multi-line item BEARs will henceforth be processed on a line-by-line basis. This means that portions of some BEARs can be paid out more quickly while other line items are still being reviewed. The News Brief provided an example of a line status table that will be included in BEAR Notification Letters mailed to applicants. As shown in the example below, line status data will also be provided in Block 2 of the online BEAR Invoice report.

Block 2: Line Item Information Per Funding Request Number								
7. FCC Form 471 Application Number (from Funding Commitment Decision Letter)	8. Funding Request Number (FRN) (from Funding Commitment Decision Letter)	9. Bill Frequency	10. Customer Billed Date	11. Shipping date to Customer or Last Day of Work Performed (mm/dd/yyyy)	12. Total (Undiscounted) Amount for Service	13. Discount Rate	14. Discount Amount Billed to USAC (Column 12 multiplied by Column 13)	Approval Status
1)		MONTHLY	1/2/2020		$ 31125.80	90	$ 28013.22	COMPLETED
2)		MONTHLY	2/2/2020		$ 31125.80	90	$ 28013.22	USAC REVIEW
3)		MONTHLY	3/2/2020		$ 31125.80	90	$ 28013.22	USAC REVIEW
4)		MONTHLY	4/2/2020		$ 31125.80	90	$ 28013.22	USAC REVIEW

USAC News Brief Dated October 9 – Additional FAQs on Second Window Applications

USAC's Schools and Libraries News Brief of October 9, 2020, provides answers to additional questions concerning FY 2020 second window applications and their processing. These FAQs are summarized below.

Question: It appears that the second window Form 471 I filed has just been canceled. Why?

Answer: USAC is working with applicants to minimize the need to track additional FRNs submitted in the second window. Wherever possible, USAC will try to combine related funding requests from the first and second windows into single FRNs that can be more easily processed for invoicing purposes. Applicants will need to pay particular attention to RAL modifications, service substitutions, and Revised Funding Commitment Decision Letters ("RFCDLs").

Question: I filed a large application (consortium or school district) during the original FY 2020 filing window, but only some of the recipients of service on the original application are seeking additional bandwidth in the second FY 2020 filing window. How should I file?

Answer: USAC recommends that you refile the entire (expanded) FRN. USAC asks that the FRN narrative include the following information:
- List of the sites that are requesting the additional bandwidth
- Details of the costs for the sites that are requesting the additional bandwidth
- Price per Mbps for the sites that are requesting the additional bandwidth

Question: If I had to open a new site due to COVID-19, and that site is an annex to an existing school, can I request additional bandwidth for the annex?

Answer: Yes, as long as the annex is considered to be part of the existing school and it meets all of the other requirements to request the additional bandwidth for the second FY 2020 filing window.

Question: I filed for high-speed internet access services during the original window but did not request bids for Leased Lit Fiber. Now I need to migrate to a lit fiber service for additional bandwidth. Do I have to post a Form 470 for Leased Lit Fiber?

Answer: No. You can cite to the original Form 470 on your second FY 2020 filing window funding request.

Note: The waiver of the competitive bidding requirements only applies to additional bandwidth requested for FY 2020 (i.e., services received through June 30, 2021). If you need the higher bandwidth service beyond FY 2020, you will need to rebid the service for FY 2021 (see our discussion of the *Kalamazoo Order* precedent in our [newsletter of October 5th](#)).

The News Brief also encourages users to [Share Your E-rate User-Experience System Ideas](#).